

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

| | | |
|---------------------------------|----------|----------------------------|
| UNITED STATES OF AMERICA | : | |
| v. | : | CRIMINAL NO. 21-132 |
| MURTY VEPURI | : | |
| KVK-TECH, INC. | : | |
| ASHVIN PANCHAL | : | |

MOTION TO STAY PROCEEDINGS

On March 25, 2022, the United States timely filed a notice of appeal (DDE # 150) from the order of this Court entered on February 23, 2022 (DDE # 132), which granted in part the motion of defendants KVK-Tech, Inc. and Ashvin Panchal, joined by defendant Murty Vepuri, to dismiss the superseding indictment for failure to state an offense, dismissing one object of a two-object conspiracy charged under Title 18, United States Code, Section 371 in Count One of the superseding indictment for “conspiring to introduce an article in violation of 21 U.S.C. §§ 331(d) and 355(a)” of the Food, Drug and Cosmetic Act (“FDCA”).

The filing of the notice of appeal has divested the Court of jurisdiction for the pendency of the appeal proceedings. *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (“The filing of a notice of appeal is an event of jurisdictional significance -- it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.”).¹

¹ As a practical matter, the case cannot proceed without the dismissed object since the other charges – object two of the section 371 conspiracy charging the defendants with making false statements to the FDA regarding the FDCA violation, in violation of 18 U.S.C. § 1001, and Count Two of the superseding indictment charging mail fraud for fraudulently selling unapproved new drugs that KVK represented to customers were in compliance with the FDCA, in violation of 18 U.S.C. § 1341 – are inextricably linked to whether an FDCA violation

Thus, the government respectfully requests the Court to order the proceedings stayed while the appeal is pending.

Respectfully submitted,

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/s/ M. Beth Leahy

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occurred. Further, it makes good sense to stay the entire proceedings at this juncture as a matter of judicial economy.

CERTIFICATE OF SERVICE

I certify that the foregoing Motion to Stay Proceedings was served on all counsel of record by federal express and by email.

/s/ M. Beth Leahy

M. Beth Leahy

Assistant United States Attorney

Date: April 11, 2022